

**OFFICE OF PROFESSIONAL REGULATION
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Memorandum For: Publication

From: Paul H. Wieck II, Director

Subject: Client Security Rule Changes as Adopted

Date: November 26, 2013

This memo summarizes the rule changes regarding the Client Security Trust Fund adopted November 26, 2013.

Iowa Court Rule 39.6

All lawyers newly admitted to the Iowa bar pay an initial assessment of \$200 to the Client Security Trust Fund (the fund). Lawyers admitted on motion begin paying the initial assessment in installments commencing the year of admission. Lawyers admitted by examination begin paying the initial assessment in installments beginning in the third year of admission. Lawyers in full-time private practice pay \$50 installments each year until the initial \$200 assessment is paid. Lawyers in government, corporate, or part-time status pay \$25 installments each year until the \$200 assessment is paid. The rule change retains the initial assessment of \$200, but makes the installments in which it is paid uniform at \$50 per year regardless of practice status. This change is effective for all installments paid for the 2014 lawyer reporting year and following years.

Each December 1st the Client Security Commission (the commission) calculates the net value of the fund, deducting the pending claims and requests for reimbursement and all other expenses chargeable against the fund. If the net value equals or exceeds \$600,000, no special assessment is payable by lawyers

in the following year. If the net amount is less than \$600,000, a special assessment is payable by all active lawyers who previously have paid their initial assessment of \$200 to the fund. The rule change increases the threshold for the annual sufficiency calculation to \$900,000, effective for the calculation to be performed December 1, 2013. Coupled with the current fund balance, the increase in the threshold is expected to prompt a special assessment during 2014.

The special assessment payable in a year after the sufficiency calculation falls below the established threshold currently varies depending on practice status. Lawyers in full-time private practice pay a special assessment of \$100 in a special assessment year. Judges, government lawyers, corporate lawyers, and part-time practitioners pay a special assessment of \$25. The rule change increases the special assessment payable by lawyers in full-time private practice to \$140, and increases the special assessment payable by judges, government lawyers, and corporate lawyers to \$70. This change is effective for all special assessments paid for the 2014 lawyer reporting year and any following year in which a special assessment is payable.

Since the inception of the fund, an alternative special assessment has been available by lawyers whose income from the practice of law in Iowa is limited. Rule 39.6(3) currently sets the alternative assessment at one percent of net income derived from the practice of law in Iowa, but in any event not less than \$25. Literally applied, the alternative special assessment can vary between \$25 (at a net income of \$2,500 or below), up to the normal special assessment of \$100 for full-time private practitioners (at a net income of \$10,000). In practice, the commission simplified the alternative assessment and reduced reliance on lawyer income tax returns by establishing a client status of part-time for those practitioners who represent that their net income from the practice of law in Iowa is less than \$10,000, and assessing those part-time practitioners a flat \$25 in those years when a special assessment is due. This is the same special assessment amount that has been payable by government lawyers, corporate lawyers, and judges. The rule change conforms the special assessment provisions for part-time practitioners to actual practice. The net income qualification for part-time status is specifically established at less than \$10,000 from the practice of law in Iowa. The special assessment for part-time practitioners is set at \$70, the same special assessment amount payable by government lawyers, corporate lawyers, and judges. This change is effective for all special assessments paid for the 2014 lawyer reporting year and any following year in which a special assessment is payable.

The rule change creates a new, regular annual assessment in the amount of \$50, payable in years when no special assessment is payable. This regular assessment will be payable by all lawyers who previously have paid their initial \$200 assessment. This change is effective for the 2014 lawyer reporting year and any following years in which a special assessment is not payable.

Lawyers not admitted in Iowa who establish an office or other systematic and continuous presence in Iowa to practice under the authority of rule of professional conduct 32:5.5(d)(2) are required by rule 39.16 to comply with client security reporting, assessment, trust account, and audit duties. The rule change makes clear that the initial, regular, and special assessments payable by such lawyers are the same as those payable by admitted lawyers in private practice.

Iowa Court Rule 40.3

The rule change increases the reimbursement limits for claims against the fund. The current limit on an individual claim is raised from \$50,000 to \$100,000. The current limit on total claims payable as a result of the conduct of any one attorney is raised from \$150,000 to \$300,000. The increase in the reimbursement limits is effective for claims arising from lawyer conduct occurring on or after January 1, 2014.